

**Yellowstone County CONTRACT FOR County and Tribal Matching Grant Program
CONTRACT NUMBER 20-331-74311-0**

THIS CONTRACT is entered into between Yellowstone County ("County"), whose contact information is as follows: 316 North 26th Street Room 3101, Billings, MT, 59101, and Phone (406) 256-2701 Downtown Billings Alliance ("Subcontractor"), whose contact information is as follows: 116 N 29th St, STE. A, Billings, MT 59101; respectively (collectively, the "Parties").

SECTION 1. SERVICES/SCOPE OF WORK

- A. This Contract constitutes the basic agreement between the parties for: effective response to acute mental health crises to prevent unnecessary restrictive placements such as incarceration or Montana State Hospital (MSH). The State believes there is no single solution for this problem and every community will need to tailor strategies to meet their communities' unique realities and resources. The State encourages contractor/subcontractor to implement strategic planning and community process/resource mapping and refer to national initiatives, resources, and models such as National Association of Counties' Stepping Up Initiative, Substance Abuse and Mental Health Services Administration's (SAMHSA) GAINS Center, and Sequential Intercept Model. The State believes innovative community solutions require system approaches, data driven strategies, and strong intersectoral partnerships (the "Services"), as more particularly described Below.
- B. Time is of the essence under this Contract.
- C. The County and the subcontractor, their employees, agents, contractors and subcontractors will cooperate with each other, and with other state or federal administrative agency employees, contractors and subcontractors at no charge for purposes relating to the delivery of and administration of the services to be delivered under this Contract.
- D. The Subcontractor will perform the Services in accordance with all of the provisions of the Contract awarded to Yellowstone County by the Montana Department of Public Health and Human Services (the "State"): **"Tribal Matching Grant Program CONTRACT NUMBER 20-331-74311-0" hereinafter referred to as "Master Contract"**.

- a. Contract (this instrument)
- b. Attachment A: Scope of Work
- c. Attachment B: Payment/Fee Schedule and Budget
- d. Attachment C: Invoice
- e. Attachment D: Federal and State Law Requirements
- f. Attachment E: Insurance Requirements
- g. Attachment F: Business Associate Agreement
- h. Attachment G: Assurances
- i. Attachment H: Dark Money Disclosure Declaration
- j. Attachment I: Request for Proposal, Contractor's Proposal

SUBCONTRACTOR INFORMATION:

Downtown Billings Alliance
116 N 29th St, Ste. A
Billings, MT 59101
Federal Tax ID 20-5506295
Phone Number 406-294-5060

The subcontractor shall provide the following services: Outlined in Goals 1 and 2, Strategies 2 and 4, Items 3, 6, 24 and Objective 4 of DBA will hire a Resource Outreach Coordinator (ROC)

- ☐ DBA will plan, coordinate and pilot a mobile crisis team in the downtown Billings area along with other service providers.
- ☐ DBA will revitalize the MAAP along with other service providers.
- ☐ DBA will work with peer support when applicable.
- ☐ DBA will work with others to develop a plan for implementing Mobile Crisis Response on scale for the whole community while piloting through the Motivated Addiction Alternative Program (MAAP).
- ☐ DBA/MAAP will hire a Resource Outreach Coordinator (ROC) who works alongside two dedicated downtown police officers and judges to offer treatment as an alternative to a misdemeanor citation or jail. The level of care may be home, to the CCC, to one of the hospitals, detox or to sign up for mental health or treatment services.
- ☐ The ROC and downtown police officers will partner with an LAC or a peer support specialist for 10 hours per week. This person will develop relationships with “street” community in Billings. The DBA will pay for this person’s 10 hours a week and benefits through this grant.
- ☐ The LAC/peer support will “round” each week to connect with individuals in behavioral health crisis where they are “hanging out”; places like the library, St. Vincent DePaul, the Montana Rescue Mission, and simply on the streets of downtown Billings.
- ☐ The DBA Resource Outreach Coordinator (ROC) will work closely with SACD partners to facilitate outreach and MAAP assessments, providing vulnerable individuals access to treatment options, health, housing, and social services. The holistic model emphasizes harm-reduction and is person-focused to provide alternative options to incarceration.
- ☐ The ROC will be a dedicated member of the Yellowstone County Coordinated Entry team, providing VISPDAT assessments to the individuals he encounters through the MAAP program, and ensuring these individuals can get housing.

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- ☐ The DBA will begin using the state Homeless Management Information System to track clients assessed through the VISPDAT, and to coordinate with other community providers also using this database (the CCC, MRM, St. Vincent DePaul, Housing Authority of Billings, VOA, Riverstone Health etc.).
- ☐ DBA will provide all relevant data and invoicing to the CCC on a monthly and quarterly basis and provide this by the 20th of each month.

REIMBURSEMENT SCHEDULE

County Matching Grant Budget Schedule:

8.
9.
1.0

E. Training/Travel

2. (should be 4)

SECTION 2. TERM OF CONTRACT

The term of this Contract is from January 1, 2020, through June 30, 2021, unless terminated in accordance with the Contract. Renewals of this Contract, by written agreement of the parties, may be made at one- year intervals, or any interval that is agreed upon by both parties. The Contract may not be renewed for more than a total of 7 years.

SECTION 3. CONSIDERATION AND PAYMENTS

Subject to the terms and conditions contained in the Master Contract, the County will pay the Subcontractor for the Services as follows upon approval and payment from Montana County of Public Health and Human Services, Addictive and Mental Disorders Division:

A. The County will reimburse the Subcontractor in consideration of the services the Subcontractor provides under this Contract as follows:

1. The total reimbursement provided to the Subcontractor for the purposes of this Contract may not exceed \$102,253 for the period the Contract is in effect and the Subcontractor is eligible to receive funds.

B. Other Programs as Payers for Services - Non-Duplication of Payment

The Subcontractor may not seek compensation from monies payable through this Contract for the costs of goods and services that may be or are reimbursed, in whole or in part, from other programs and sources.

C. Billing Procedures and Requirements

1. Payment shall be made pursuant to the following specified budget (in Attachment B) in Master Contract.
2. Payment to the Subcontractor shall

be made to: Yellowstone County,

Montana
316 North 26th Street Room 3101
Billings, MT, 59101

3. The Subcontractor must bill in accordance with the procedures and requirements the County identifies and must itemize all services and **expenses** for reimbursement. Subcontractor must submit invoices on forms the County provides. Invoice is attached as Attachment C.

D. Adjustments to Consideration

The County may adjust the consideration provided to the Subcontractor under this Contract based on any reductions of funding, governing budget, erroneous or improper payments, audit findings, or failings in the Subcontractor's delivery of services.

E. Sources of Funding

The source of the funding for this Contract are 100% from State General Fund.

F. Erroneous and Improper Payments

The Subcontractor may not retain any monies the County pays in error or which the Subcontractor, its employees, or its agents improperly receive. The Subcontractor must immediately notify the County if it determines a payment may be erroneous or improper and must return that payment within 25 days of the County requesting its return. If the Subcontractor fails to return to the County any erroneous or improper payment, the County may recover such payment by any methods available under law or through this Contract, including deduction of the payment amount from any future payments to be made to the Subcontractor .

G. Final Payment

The County will issue the final payment to the Subcontractor for the **Services** when the County has accepted the Services and determined that the Subcontractor has met all of its Contract performance obligations satisfactorily.

SECTION 4. CREATION AND RETENTION OF RECORDS

- A. The Subcontractor must maintain all records, {written, electronic or otherwise) documenting compliance with the requirements of this Contract and its attachments, and with state and federal law, relating to performance, monetary expenditures and finances during the term of this Contract and for 8 years after its completion date. The obligation to maintain records required by this paragraph survives the termination or expiration of this Contract.
- B. If any litigation, reviews, claims or audits concerning the records related to the performance of the Contract is begun, then the Subcontractor must continue to retain records until such activity is completed.
- C. The Subcontractor must provide the County and its authorized agents with reasonable access to records the Subcontractor maintains for purposes of this Contract. The

Subcontractor must make the records available at all reasonable times at the Subcontractor's general offices or other location as agreed to by the parties.

SECTION 5. ACCOUNTING, COST PRINCIPLES, AND AUDIT

A. Accounting Standards

The Subcontractor must maintain a system of accounting procedures and practices sufficient for the County to determine to its satisfaction that the system (1) permits timely development of all necessary cost data in the form contemplated by the contract type, and (2) is adequate to allocate costs in accordance with Generally Accepted Accounting Principles.

B. Audits and Other Investigations

The County and any other legally authorized federal and state entities and their agents may conduct administrative activities and investigations, including audits, to ensure the appropriate administration and performance of this Contract, and the proper expenditure of monies, delivery of goods, and provision of Services pursuant to this Contract. The Subcontractor will provide the County and any other authorized governmental entity, and their agents access to and the right to record or copy any and all of the Subcontractor's records, materials and information necessary for the conduct of any administrative activity, investigation or audit. Administrative activities and investigations may be undertaken, and access shall be afforded under this section from the time the parties enter this Contract until the expiration of 8 years from the completion date of this Contract.

C. Corrective Action

If directed by the County, the Subcontractor must take corrective action to resolve audit findings. The Subcontractor must prepare a corrective action plan detailing actions the Subcontractor proposes to undertake to resolve the audit findings. The County may direct the Subcontractor to modify the corrective action plan.

D. Reimbursement for Sums Owing

The Subcontractor must reimburse or compensate the County in any other manner as the County may direct for any sums of monies determined by any administrative activity, investigation or audit to be owing to the County.

E. The Subcontractor must comply with the federal audit and cost accounting requirements set forth in 45 CFR Part 75 and 2 CFR Part 300.

SECTION 6. ASSIGNMENT, TRANSFER, AND SUBCONTRACTING

A The Subcontractor will not assign, transfer, delegate or subcontract any right or duty arising under this Contract without prior written approval from the County.

- B. Any assignment, transfer, delegation, or subcontracting of the Subcontractor's rights or duties under this Contract does not relieve the Subcontractor from its responsibility and liability for performance of all Subcontractor obligations under this Contract. The Subcontractor will be as fully responsible for the acts or omissions of any Subcontractor as it is for its own acts or omissions .

SECTION 7. INDEMNIFICATION

- A. The Subcontractor, at its sole cost and expense, must indemnify, defend, and hold harmless Yellowstone County and State of Montana against any allegations of liability of any kind, relating to personal injury, death, damage to property, or any other legal obligation and any resulting judgments, losses, damages, liability, penalties, costs, fees, cost of legal defense and attorney's fees, to the extent caused by or arising out of Subcontractor's performance of services under this Contract or in any way resulting from the acts or omission of Subcontractor, and/or its agents, employees, representatives, assigns, and subcontractors.
- B. The County must give the Subcontractor notice of any allegation of liability and at the Subcontractor's expense the County shall cooperate in the defense of the matter.
- C. If the Subcontractor fails to fulfill its obligations as the indemnitor under this section, the County may undertake its own defense. If the County or State undertakes its own defense, the Subcontractor must reimburse the County and/or State for any and all costs to the County and/or State resulting from settlements, judgments, losses, damages, liabilities, and penalties and for all the costs of defense incurred by the County and/or State including but not limited to attorney fees, investigation, discovery, experts, and court costs.

SECTION 8. LIMITATIONS OF COUNTY AND STATE LIABILITY

- A. Any liabilities of the County and/or State and its officials, employees and agents are governed and limited by the provisions of Title 2, Chapter 9, MCA, for all acts, omissions, negligence, or alleged acts or omissions, negligent conduct, and alleged negligent conduct related to this Contract.
- B. The County shall not be liable, regardless of the form of action, whether in contract, tort, negligence, strict liability or by statute or otherwise, for any claim related to or arising under this Contract for consequential, incidental, indirect, special, or exemplary damages, including without limitation lost profits and lost business opportunities.

SECTION 9. INSURANCE COVERAGE

- A. Without limiting any of Subcontractor's obligations hereunder, Subcontractor must carry insurance coverage in accordance with the requirements stated in Master Contract, Attachment E, Insurance Requirements, attached hereto and incorporated herein by

reference .

SECTION 10. CONFLICTS OF INTEREST

- A. The Subcontractor must not have any conflict of interest regarding the performance of the Services under this Contract. The Subcontractor may not enter into any contract or other arrangement for the use, purchase, sale lease or rental of real property, personal property or services funded with monies of this Contract if an employee, administrator, officer or director of the Subcontractor may receive a financial or other valuable benefit as a result. The County may grant exceptions to this prohibition where it determines the particular circumstances warrant the granting of an exception.

SECTION 11. COMPLIANCE WITH LAWS/WARRANTIES

- A The Subcontractor must comply with all state and federal laws, rules, regulations, ordinances, and executive orders applicable to the performance of the Services under this Contract. Attachment D to this Contract contains a list of state and federal authorities. The Subcontractor must assure that all subcontractors comply with all applicable laws.
- B. Civil Rights. The Subcontractor may not discriminate in any manner against any person on the basis of race, color, national origin, age, physical or mental disability, marital status, religion, creed, sex, sexual orientation, political beliefs, genetic information, veteran's status, culture, social origin or condition, ancestry, or an individual's association with individuals in any of the previously mentioned protected classes in the performance of this Contract or in the delivery of Montana State services or funding on behalf of the State of Montana.
- C. The Subcontractor must submit the assurances, where applicable, set forth in Attachment D and attached as Attachment G, to this Contract prior to commencement of work under this Contract.
- D. The Subcontractor represents and warrants that the Subcontractor is legally authorized under state and federal business and tax legal authorities to conduct business in accordance with this Contract.
- E. The Subcontractor represents and warrants that it is an independent Subcontractor and that its employees, agents and Subcontractors are not employees of the State of Montana. The Subcontractor may not in any manner represent or maintain the appearance of being employees of the State of Montana.
- F. The Subcontractor must comply with all applicable Workers' Compensation requirements.
- G. The Subcontractor must pay all state, federal, social security, unemployment insurance, and all other taxes, assessments, or contributions due and payable to the State of Montana and/or the United States in connection with the Services to be

performed under this Contract. The Subcontractor must hold the State of Montana harmless from any liability on account of any such taxes or assessments.

SECTION 12. REGISTRATION OF OUT OF STATE ENTITIES

- A. Any business intending to transact business in Montana must register with the Secretary of State. Businesses that are domiciled in another state or country, but which are conducting activity in Montana, must determine whether they are transacting business in Montana in accordance with 35-1-1026 and 35-8-1001, MCA. Such businesses may want to obtain the guidance of their attorney or accountant to determine whether their activity is considered transacting business.
- B. If businesses determine that they are transacting business in Montana, they must register with the Secretary of State and obtain a certificate of authority to demonstrate that they are in good standing in Montana. To obtain registration materials, call the Office of the Secretary of State at (406) 444- 3665, or visit their website at <http://sos.mt.gov>.

SECTION 13. OWNERSHIP OF DATA AND DOCUMENTS

- A All data, information, work in progress, documents, reports, patents or copyrights developed in connection with any services under this Contract or information provided to the Subcontractor, both in hard-copy form and as may be embodied on any recording and storage media, is deemed State property and, upon request at the termination or expiration of this Contract, shall be delivered to the ~~State~~.

SECTION 14. CONFIDENTIALITY

- A Personal Information
 - 1. During the term of this Contract, the Subcontractor, its employees, subcontractors and agents must treat and protect as confidential all material and information the County and State provides to the Subcontractor or which the Subcontractor acquires on behalf of the County and State in the performance of this Contract which contains the personal information of any person.
 - 2. In its use and possession of personal information, the Subcontractor must conform to security standards and procedures meeting or exceeding current best **business** practices. Upon the County's request, the Subcontractor will allow the County and/or State to review and approve any specific security standards and procedures of the Subcontractor.
- B. Notice by Subcontractor of Unauthorized Disclosures or Uses of Personal Information
 - 1. Immediately upon discovering any unauthorized disclosure or use of personal

information by the Subcontractor, its employees, subcontractors, agents, the Subcontractor must confidentially report the disclosure or use to the County and State in detail and must undertake immediate measures to retrieve all such personal information and to prevent further unauthorized disclosure or use of personal information.

C. Notice by Subcontractor of Investigations, Complaints, Litigation Concerning the Use and Protection of Personal Information

1. The Subcontractor must provide the County and State with written notice within five work days of the Subcontractor receiving notice of any administrative action or litigation threatened or initiated against the Subcontractor based on any legal authority related to the protection of personal information.
2. With its notice, the Subcontractor must provide the County and State with copies of any relevant correspondence, pleadings, papers, administrative or legal complaints and determinations.

D. Contract Information

The Subcontractor must hold in strict confidence any data, findings, results, or recommendations obtained or developed by the Subcontractor in connection with the **Services** under this Contract, including but not limited to, information and data given to the Subcontractor by the County and/or State, its agents or Subcontractors or any other source.

E. Access/Use of Confidential Information

The Subcontractor may not access or use personal, confidential, or other information obtained through the County and/or State, its agents and Subcontractors, unless the Subcontractor does so:

1. in conformity with governing legal authorities and policies;
2. with the permission of the persons or entities to whom or which the information pertains; and
3. with the review and approval by the County and State prior to use, publication or release.

F. The information contained within this Contract and attachments, inclusive of Subcontractor's proposal and its attachments, if any, and information otherwise provided to the County in relation to this contractual relationship is not confidential and is available for public inspection and copying unless determined in accordance with federal or state law to be confidential as personal consumer, recipient or employee information or as business/corporate proprietary information that is protected from release. To any extent required or allowed by law, the County has the right to use for public purposes and to disclose to the public

contractual information inclusive of reports, evaluations, statistics, and other management and performance information related to this Contract.

SECTION 15. PROPRIETARY INFORMATION

- A. Before the County can recognize a business/corporate claim of confidential trade secret or proprietary information, the Subcontractor must identify and segregate the information for which the claim is being asserted and must have provided a detailed legal analysis supporting the claim of confidentiality. The Subcontractor must include with that claim an affidavit of legal counsel on the form provided by the County, titled "AFFIDAVIT FOR PROPRIETARY INFORMATION CONFIDENTIALITY," attesting to legal counsel's legal relationship to the Subcontractor, acknowledging the primacy of federal and Montana law with respect to the claim, and indemnifying the County with respect to defense and warranting the Subcontractor's responsibility for all legal costs and attorneys' fees, should the County accept the claim as legitimate and as a result be subjected to administrative or legal contest.
- B. The County will provide the Subcontractor timely notice of any administrative or legal request or contest from a third-party seeking release of contractual and related information for which the Subcontractor has properly made a claim that the information is confidential as trade secret or proprietary information. If the County determines that such information is subject to the public right to know and must be released as requested, the County will provide the Subcontractor with notice of the intended release five working days prior to the date of the proposed release. The notice period is intended to allow the Subcontractor to make arrangements, if desired, to intervene through an appropriate legal forum to contest the release.

SECTION 16. COMPLIANCE WITH THE FEDERAL HIPAA AND HITECH PRIVACY AND SECURITY REQUIREMENTS

- A. If the Subcontractor is a "Business Associate" as defined at 45 C.F.R. § 160.103, it must comply with the privacy and security requirements for functioning as a "business associate" of the County and State or as a "covered entity" under HIPAA and HITECH. In addition to executing this Contract, the Subcontractor must execute the Business Associate Agreement attached to this Contract as Attachment F.

SECTION 17. PUBLICITY AND DISCLAIMERS

- A. The Subcontractor may not use monies under this Contract to pay for media, publicity or advertising that in any way associates the services or performance of the Subcontractor. State or the County under this Contract with any specific political agenda, political party candidate for public office, or any matter to be voted upon by

the public. Media includes but is not limited to commercial and noncommercial print, verbal and electronic media.

- B. The Subcontractor must inform any people to whom it provides consultation or training services under this Contract that any opinions expressed do not necessarily represent the position of the County or State. All public notices, information pamphlets, press releases, research reports, posters, public service announcements, web sites and similar modes of presenting public information pertaining to the services and activities funded with this Contract prepared and released by the Subcontractor must include the statement:

"This project is funded in whole or in part under a Contract with the Montana Department of Public Health and Human Services. The statements herein do not necessarily reflect the opinion of the Department."

- C. The Subcontractor must state the percentage and the monetary amount of the total program or project costs of this Contract funded with (a) federal monies and (b) non-federal monies in all statements, press releases, and other documents or media pieces made available to the public describing the services provided through this Contract.
- D. Before the Subcontractor uses, publishes, releases or distributes them to the public or to local and state programs, the County and State must review and approve all products, materials, documents, publications, press releases and media pieces (in any form, including electronic) the Subcontractor or its agents produce with contract monies to describe and promote services provided through this Contract.

SECTION 18. ACCESS TO PREMISES

- A The Subcontractor must provide the County and State of Montana and any other legally authorized governmental entity, or their authorized representatives, the right to enter at all reasonable times the Subcontractor's premises or other places where contractual performance occurs to inspect, monitor or otherwise evaluate contractual performance. The Subcontractor must provide reasonable facilities and assistance for the safety and convenience of the persons performing these duties. All inspection, monitoring and evaluation must be performed in such a manner as not to unduly interfere with contractual performance.

SECTION 19. LIAISON AND SERVICE OF NOTICES

- A Denis Pitman, Chair Yellowstone County Commissioner, Phone (406) 256-2701, dpitman@co.yellowstone.mt.gov, or their successor, is the liaison for the County. Mackenzie Petersen, Phone (406) 444-2878, Fax (406) 444-7391, Mackenzie.Petersen@mt.gov is the liaison for the State. These persons serve as the primary contacts between the parties regarding the performance of this Contract. Written notices, reports and other information required to be exchanged between the parties must be directed to the liaison at the parties' addresses set out in this Contract.

SECTION 20. FORCE MAJEURE

- A. If the Subcontractor or the County is delayed, hindered, or prevented from performing any act required under this Contract by an occurrence beyond the control of the asserting party including, but not limited to, theft, fire, or public enemy, severe and unusual weather conditions, injunction, riot, strikes, lockouts, insurrection, war, or court order and the asserting party gives prompt written notice of the event to the other party, then performance of the act shall be excused for the period of the delay, to the extent the performance is actually affected and the asserting party resumes performance as soon as practicable. Matters of the Subcontractor's finances shall not be considered a force majeure.

SECTION 21. CONTRACT TERMINATION

- A. The County may terminate this Contract without cause and in lieu of any or all other remedial measures available through this Contract. The County terminating without cause must give written notice of termination to the Subcontractor at least sixty (60) days prior to the effective date of termination. In the event of such termination without cause, the Subcontractor shall be paid for all Services rendered satisfactorily to the termination date and for any direct costs {not including anticipated profits) incurred by the Subcontractor as a result of the termination. Such payment shall constitute the Subcontractor's sole right and remedy. The County has the right to terminate without cause even when a condition of force majeure exists.
- B. The County may immediately terminate this Contract if the Subcontractor engages in any violation of state or federal law listed in this Contract or any Attachment to this Contract, or which otherwise may be applicable to the Contract arising from the performance of Services under this Contract.
- C. The County may terminate this Contract in whole or in any aspect of performance under this Contract if:
1. federal or state funding for this Contract becomes unavailable or reduced for any reason; or
 2. the County or State determines that the Subcontractor is failing to perform in accordance with the terms of this Contract. In such event, the County shall **give** Subcontractor written notice of breach and an opportunity to cure the breach. Subcontractor will correct the breach within 30 calendar days of receipt of such notice unless the cure period is otherwise specified in the written notice of breach. If the breach is not corrected timely, this Contract may be terminated immediately, in whole or in part, by written notice from the County to Subcontractor. The option to terminate shall be at the discretion of the County or State.
- D. Upon expiration, termination or cancellation of this Contract, or any portion of this Contract, the Subcontractor must assist the County, its agents, representatives and designees in closing out this Contract, and in providing for the orderly transfer of contract responsibilities and the continued delivery of contract services by the

County or its designee, and shall allow the County access to the Subcontractor's facilities, records and materials to fulfill these requirements.

SECTION 22. ADDITIONAL REMEDIES

A. Withholding Payments

If the Subcontractor fails to perform the services in conformance with the requirements of this Contract, the County and/or State has the right, with notice, to withhold any and all payments directly related to the non-compliant services. The County may withhold any payments due to the Subcontractor, without penalty or work stoppage by Subcontractor, until the Subcontractor cures performance to the satisfaction of the County. The Subcontractor is not relieved of its performance obligations if any payment is withheld.

B. Reductions in Payments Due

Amounts owed to the County by the Subcontractor under this Contract, including but not limited to liquidated or other damages, or claims for damages, may be deducted or set-off by County and/or State from any money payable to Subcontractor pursuant to this Contract.

C. If, in the County's reasonable judgment, a default by Subcontractor is not so substantial as to require termination of the entire Contract, reasonable efforts to induce the Subcontractor to cure the default are unavailing, the Subcontractor fails to cure such default within 30 calendar days of receipt of notice from the County and/or State, and the default is capable of being cured by the County or by another resource without unduly interfering with continued performance by the Subcontractor, the County, without prejudice to any other remedy it may have, may terminate performance of the particular service that is in default and provide or procure the services reasonably necessary to cure the default. In the event of a termination for failure to perform, County will, without limiting its other available remedies, have the right to procure the terminated services and the Subcontractor will be liable for: (i) the cost difference between the cost of the terminated services and the costs for the replacement services acquired from another vendor or expended by County, and (ii) if applicable, the following administrative costs directly related to the replacement of this Contract: costs of competitive bidding, mailing, advertising and staff time costs.

D. Stop Work Order

1. The County may, at any time, by written stop work order to the Subcontractor, require the Subcontractor to stop any or all parts of the work required by this Contract for the period of days indicated by the County after the stop work order is delivered to Subcontractor. The stop work order must be specifically identified as a stop work order issued under this section. Upon receipt of the stop work order, the Subcontractor must immediately comply with its terms and take all reasonable steps to minimize the

incurrence of costs allocable to the work covered by the stop work order during the period of work stoppage.

2. If a stop work order issued under this section is canceled or the period of the stop work order, or any extension expires, the Subcontractor must resume contractual performance. The County, as may be necessary, must adjust through amendment to this Contract the delivery schedule or reimbursement, or both.

E. Right to Assurance

If the County, in good faith, has reason to believe that the Subcontractor does not intend to, or is unable to perform or has refused to perform or continue performing all material obligations under this Contract, the County may demand in writing that the Subcontractor give a written assurance of intent to perform. Failure by Subcontractor to provide written assurance within the number of days specified in the demand (not less than five business days) may, at the County's option, be the basis for terminating this Contract under the terms and conditions or other rights and remedies available by law or provided by this Contract.

- F. Any remedies provided by this Contract are not exclusive and are in addition to any other remedies provided by law.

SECTION 23. CHOICE OF LAW, REMEDIES AND VENUE

- A. This Contract is governed by the laws of the State of Montana.
8. For purposes of litigation concerning this Contract, venue must be in the First Judicial District in and for the County of Lewis and Clark, State of Montana.
- C. If there is litigation concerning this Contract, the Subcontractor must pay its own costs and attorney fees.

SECTION 24. GENERAL

- A. No statements, promises, or inducements made by the parties or their agents are valid or binding if not contained in this Contract and the materials expressly referenced in this Contract as governing the contractual relationship.
- B. The headings to the section of this Contract are convenience of reference and do not modify the terms and language of the sections to which they are headings.
- C. Except as may be otherwise provided by its terms, this Contract may not be enlarged, modified or altered except by written amendment signed by the parties to this Contract.
- D. If there is a dispute as to the duties and responsibilities of the parties under this Contract, this Contract along with any attachments prepared by the County,

including request for proposal, if any, govern over the Subcontractor's proposal, if any.

- E. If a court of law determines any provision of this Contract is illegal, all other provisions of this Contract remain in effect and are valid and binding on the parties.
- F. Any provision of this Contract that is determined to conflict with any federal or state law or regulation, is inoperative to the extent it conflicts with that authority and is to be considered modified to the extent necessary to conform with that authority.
- G. Waiver of any default, breach or failure to perform under this Contract may not be construed to be a waiver of any subsequent default, breach or failure of performance. In addition, waiver of a default, breach or failure to perform may not be construed to be a modification of the terms of this Contract unless reduced to writing as an amendment to this Contract.
- H. This Contract may be executed in counterparts, which together will constitute one instrument.

AUTHORITY TO EXECUTE

Except as modified above, all other terms and conditions of Contract Number 20-331-74311-0 remain unchanged and incorporated into this contract by reference. All other terms and conditions are also incorporated into this contract.

The parties through their authorized agents have executed this on the dates set out below.

BY: _____ Date: _____
Denis Pitman, Chair Yellowstone County Commissioner

BY: _____ Date: _____
Downtown Billings Alliance